

**Amendments to the Drawings:**

The attached sheet of drawings includes changes to Figure 3. This sheet, which include Figure 3, replaces the original sheet including Figure 3. In Figure 3, previously omitted element reference character 34 has been added.

Attachments:        Replacement Sheet

### **REMARKS**

By the foregoing Amendment, the Abstract, Figure 3 and Claims 1-4, 13 and 16 are amended. Entry of the Amendment, and favorable consideration thereof is earnestly requested.

The Examiner has objected to the Abstract as containing legal phraseology, and to Figure 3 as not including all reference signs mentioned in the description. The Abstract and Figure 3 have been amended to obviate these objections.

Claims 1-6 and 8-18 stand rejected under 35 U.S.C. §102(e) as being anticipated by Klein (U.S. Patent No. 6,709,330), and Claim 7 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Klein in view of O'Shaughnessy (U.S. Patent No. 6,484,151). Applicant respectfully asks the Examiner to reconsider these rejections in view of the above Amendments and the below Remarks.

The present invention, as claimed, is directed to a system and method for simulating the trading of financial assets, which system and method simulates trading by presenting to the user a series of time intervals and corresponding prices and processing trades indicated by the users based on this series of time intervals and corresponding prices. All claims have been amended to highlight the fact that, in the inventive system and method of the present invention, at least some of the time intervals and corresponding prices are based on historical data.

Applicant respectfully submits that at least the above-highlighted elements, required by all claims of the present application, as amended, are not disclosed,

taught or suggested by the prior art cited by the Examiner, or by any other prior art of which Applicant is aware.

Klein is directed to an options simulation engine for an options trading game. The simulation engine comprises a game engine for keeping track of game time and game settings, an options market simulator for simulating a real-world options trading environment, and a portfolio manager engine for keeping track of a player's portfolio. The options market simulator comprises a basic stock price generator for moving stock prices, a news/rumor generator for moving stock prices, and an options pricing generator for pricing options. The portfolio manager comprises an available cash/minimum balance mechanism for determining how much a player is charged for buying and/or selling options and stocks, and for maintaining a player's positions, a risk analysis mechanism for determining the amount of money a player can lose for any given stock or option, a margin requirements mechanism for keeping track of the minimum equity required in a player's account to support the player's total investment position, a profit and loss mechanism for determining a player's profit and loss throughout the game and on a weekly basis, and a trading rules/limitations mechanism that prevents a player from breaking a trading rule or exceeding a limitation during game play.

It should be noted, however, that no where does Klein disclose, teach or suggest that at least some of the time intervals and corresponding prices are based on historical data, as is required by all claims, as amended.

As is discussed in detail in Klein, the basic stock price movement generates movements employing a given formula based upon trades which occur within the game. Similarly, the news/rumor generator generates a news string based upon a

detailed scheme for creating and presenting news stories and rumors to the game players. Offers and options pricing is similarly generated by the game engine pursuant to disclosed algorithms. All of the data used by the game engine, and all of the data displayed to the user is fictitious data generated by the game engine pursuant to very detailed algorithms, and Klein goes into great detail in explaining how all of this fictitious data is created and generated (see Column 11, Line 56 through Column 18, Line 48). There is absolutely no disclosure, teaching or suggestion that real, historical data, be employed.

In Paragraph 3(c) of the outstanding Office Action, the Examiner states that "As per claim 3, Klein discloses a system according to claim 1, wherein said plurality of time intervals and corresponding prices are based on historical data (col.:5 lines: 10-23 emphasis on 14-15)." However, Applicant respectfully disagrees. The portion of Klein cited by the Examiner states that:

The options game of the present invention includes a trading pit where the action takes place; a Quotron<sup>TM</sup> where the available options on the companies in the player's pit are listed; a company information screen where a player can learn background and historical information about the companies in the player's pit; a trading screen for the player to place option and equity orders; a stock graph where the player can track the price of the underlying stock; a news ticker and news archive screen where the player can view relevant news on the companies in the player's pit; a portfolio screen where the player can review the status of the player's portfolio; and a help/glossary screen where a player can get answers to game questions and review a glossary of options terms.

First of all, this portion of Klein only mentions historical information about the companies in the player's pit. No disclosure, teaching or suggestion is presented that any time intervals and corresponding prices are based on historical data, as is required by all claims. Moreover, Applicant respectfully submits that when Klein is taken as a whole, it is clear that all time intervals and corresponding

prices in Klein upon which simulated trades are based are fictitious and are based on the detailed algorithms discussed in Klein, and are not based on historical data. Moreover, when Klein is taken as a whole, Applicant respectfully submits that even the "background and historical information" about the company is only "historical" within the game world created by Klein, much like the "news" is only "news" within the game world created by Klein. Based upon the teachings of Klein, one skilled in the art would understand that the entire game world, including the companies themselves, the "background and historical information" related to these companies, the "news/rumors" associated with these companies, and all other data is fictitious, and is not based upon any historical data.

Thus, since Klein does not disclose, teach or suggest in any way that at least some of the time intervals and corresponding prices are based on historical data, as is required by all claims, as amended, there can be no anticipation of any claim, as amended, of the present application.

Moreover, Applicant respectfully submits that it would not have been obvious to have modified Klein to arrive at the present invention, as claimed. It is well settled that the mere fact that references can be combined or modified does not render the resultant combination or modification obvious unless the prior art also suggests the desirability of the combination or modification. *In re Mills*, 916 F.2d 680, 16 U.S.P.Q.2d 1430 (Fed. Cir. 1990). It is also well settled that if the proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984).

In the present case, Applicant respectfully submits that it would not have been obvious to have modified Klein to employ time intervals and corresponding prices which are based on historical data. First of all, a large portion of the disclosure of Klein is devoted to explaining, in detail, the algorithms and methods used to create and generate the fictitious data upon which the simulated trading is based. If historical data were substituted for the fictitious data contemplated by Klein, a large portion of the teachings of Klein would be superfluous. One skilled in the art reading Klein would understand that the generation of fictitious data is one of the central elements, if not the most central element, of Klein, and would not have modified Klein to remove this element.

Moreover, Klein is concerned with providing a game. Although Klein does discuss that one of the purposes of the game is to educate the player, a major purpose of Klein, as with any game, is to provide a fun and exciting experience to the player. The algorithms disclosed in Klein for generating the fictitious data upon which the simulated trading is based, are specifically designed to so provide a such fun and exciting experience in order to keep game players entertained by presenting the player with unexpected and interesting situations. Such would not necessarily be the case if the time intervals and corresponding prices were based on historical data, which oftentimes might lead to ordinary and mundane situations, and therefore ordinary and mundane gameplay.

This fact is not a problem, however, in connection with the present invention, which rather than being directed to a game, is directed to a system for providing a test environment for trading assets. In fact, one of the main stated objects of the invention is to provide “a testing environment that provides a realistic relation to actual financial markets.” (see paragraph [0006] of the present

application). Thus, the present invention is concerned with allowing a user to evaluate his/her performance in a real-world environment. In fact, the system would allow the user to determine how his/her performance would have been at a particular time in history. For example, suppose the time intervals and corresponding prices were based on historical data for XYZ stock during the time period from January 1, 2000 to December 31, 2000. At the end of the simulation, the system of the present invention could inform the player that he/she would have had a specific gain or loss had he/she been trading XYZ stock during the year 2000. This information, based on real world historical data, would be much more useful to an investor attempting to gauge his/her trading experience level than would ensuring that the user has an exciting time playing a game based upon fictitious data.

O'Shaughnessy is directed to a portfolio management system which assists an investor in selecting and purchasing stocks in accordance with various portfolio strategies. O'Shaughnessy does not disclose, teach or suggest in any way a simulated trading environment, never mind a simulated trading environment in which simulated trades are based upon time intervals and corresponding prices based on historical data, as is required by all claims, as amended. While O'Shaughnessy does disclose that historical information is displayed to the investor, the historical information is used only to evaluate whether particular strategies should be pursued and/or whether particular stocks should be purchased. Historical information is not used in any way to simulate trading over a historical time period in the context of a simulated trading environment, as is required by all claims, as amended, of the present application. This fact is apparently recognized by the Examiner, in that the Examiner cites O'Shaughnessy

only as teaching the evaluation of performance as compared to financial benchmarks.

For the foregoing reasons, Applicant respectfully submits that all pending claims, namely Claims 1-18, are patentable over the references of record, and earnestly solicits allowance of the same.

Respectfully submitted,



---

Wesley W. Whitmyer, Jr., Reg. No. 33,558  
Todd M. Oberdick, Reg. No. 44,268  
ST. ONGE STEWARD JOHNSTON & REENS LLC  
986 Bedford Street  
Stamford, Connecticut 06905-5619  
(203) 324-6155  
Attorneys for Applicant